

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DERRICK WELLS,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:14-cv-01343-SEB-MJD
)	
CAROLYN W. COLVIN Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

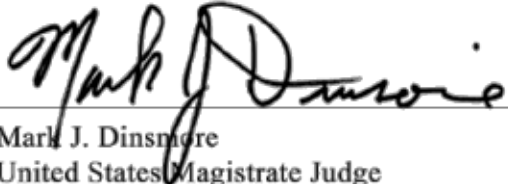
On August 8, 2014, Derrick Wells (“Plaintiff”) filed a pro se complaint alleging that substantial evidence did not support the final decision of the Commissioner that he was not entitled to disability insurance benefits. [Dkt. 1.] On November 17, 2014, the Court ordered Plaintiff to file a brief in support of the complaint by January 16, 2015. [Dkt. 12] Plaintiff did not do so. On February 6, 2015, the Court ordered Plaintiff to immediately file his overdue brief if Plaintiff still intended to pursue his complaint. [Dkt. 14.] In the event no brief was filed, the Court ordered Plaintiff to show cause by March 9, 2015 why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 41(b) due to Plaintiff’s failure to comply with the Court’s order. [*Id.*] Plaintiff did not file a brief, nor did Plaintiff file a response to the Court’s order to show cause.

Rule 41(b) provides that “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” Fed. R. Civ. P. 41(b). The Commissioner has not moved for dismissal of this case, but “[i]t is well-established that district courts possess inherent authority to dismiss a case *sua sponte* for a

plaintiff's failure to prosecute." *GCIU Employer Ret. Fund v. Chicago Tribune Co.*, 8 F.3d 1195, 1199 (7th Cir. 1993). Before dismissing a pro se litigant's complaint, a district court should typically warn the litigant that dismissal is imminent. *See, e.g., Fischer v. Cingular Wireless, LLC*, 446 F.3d 663, 665-66 (7th Cir. 2006). The Court in this case specifically warned Plaintiff in its order dated February 6, 2015 that further delay would result in dismissal. [Dkt. 14.] Plaintiff did not respond to this explicit warning, and the Magistrate Judge accordingly recommends that Plaintiff's complaint be dismissed for failure to prosecute.

Any objections to the Magistrate Judge's Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), and failure to timely file objections within fourteen days after service shall constitute a waiver of subsequent review absent a showing of good cause for such failure.

Dated: 04/09/2015



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

Distribution:

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